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10/047,925	01/14/2002	Raymond Moore	020375-008600US	2629

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
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3623

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 11

Application Number: 10/047,925
Filing Date: January 14, 2002
Appellant(s): MOORE, RAYMOND

MAILED

MAR 23 2004

GROUP 3600

Patrick M. Boucher (Reg. No. 44,037)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 14, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-3 and 7-27 stand or fall together and claims 4-6 separately stand or fall together.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

"CACI Information Solutions" (published Summer 2001 in Marketing Solutions Today and retrieved from <URL: http://www.caci.co.uk/pdfs/mst_Summer_2001.pdf> on May 17, 2003).

"CACI Limited Home Page" (dated June 2001 and retrieved from <URL: <http://web.archive.org/web/20010610010807/www.caci.co.uk>> on May 26, 2003)

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3 and 7-27 are rejected under 35 U.S.C. 102(a) as being anticipated by CACI's FieldForce Planning services and territory optimization software, which are commonly used together, as disclosed in:

"CACI Information Solutions" (published Summer 2001 in Marketing Solutions Today and retrieved from <URL: http://www.caci.co.uk/pdfs/mst_Summer_2001.pdf> on May 17, 2003]); and

"CACI Limited Home Page" (dated June 2001 and retrieved from <URL: <http://web.archive.org/web/20010610010807/www.caci.co.uk>> on May 26, 2003]).

This rejection is set forth in prior Office Action, Paper No. 8.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over CACI's FieldForce Planning services and territory optimization software, which are commonly used together, as disclosed in:

"CACI Information Solutions" (published Summer 2001 in Marketing Solutions Today and retrieved from <URL: http://www.caci.co.uk/pdfs/mst_Summer_2001.pdf> on May 17, 2003]); and

"CACI Limited Home Page" (dated June 2001 and retrieved from <URL: <http://web.archive.org/web/20010610010807/www.caci.co.uk>> on May 26, 2003]), and as applied to claim 1 above.

This rejection is set forth in prior Office Action, Paper No. 8.

(11) Response to Argument

Regarding claims 1-3 and 7-27, Appellant challenges Examiner's interpretation of the claimed recitation of a "trace":

In response to the earlier presentation of this argument, the Examiner cited a definition of "trace," but has used a definition of the verb "to trace." This distorts the construction of the claim language, which uses "trace" as a noun. A copy of the definition of the noun "trace" from the same source used by the Examiner, i.e. from Merriam Webster's Collegiate Dictionary (10th ed.) defines trace as "something (as a line) traced or drawn" (Exhibit 2). This sense of a trace as a drawn line is clearly how the term is used in the claim, as further evidenced by the discussion in the specification explaining that "a 'Draw' facility...permits traces to be drawn on the map" (Application, p. 8, l. 18). The Examiner appears to contend that a trace defining a closed geographical area is received by the CACI FieldForce software merely because the territories identified by numerical identifiers have boundaries (Final Office Action, ¶13, pp. 2-3). But the mere fact that the identified territories have no boundaries does not change the fact that they are identified in a manner different from what is claimed. (Page 7 of Appeal Brief)

None of claims 1-3 and 7-27 specifies what type of trace is received to define a closed geographical area; therefore, the Examiner submits that any input that delineates a closed geographical area meets the claimed "trace." The "CACI Limited Home Page" expressly states that "the system allows the user to make manual adjustments in

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response to changes in the workload or field personnel. InSite*Fieldforce uses CACI's Geographic Information System to analyse data and map the territories." (Page 5 of "CACI Limited Home Page") In other words, a user in charge of creating workload territories initially enters data regarding a territory(ies) of interest and CACI's FieldForce Planning services and territory optimization software translate the user's input into graphically mapped information. Each established "territory structure" (i.e., "a closed geographical area") is broken down into "bricks" (i.e., "at least one geographical unit within the closed geographical unit") and drawn as such on a map. The "CACI Limited Home Page" provides the following more detailed explanation of the relationship between a "territory structure" and related "bricks":

Territories are stored as computerised maps with each territory shade a different colour. The boundaries of the bricks, place names and the road network and other locations (e.g. home bases, depots, customers) can all be displayed on the maps. Previous territory structures can also be shown for comparison purposes.

The system can be used to display the workload in each territory and each component brick of the territory. Bricks can be reallocated from one territory to another and the result of such changes can be analysed to measure any imbalances created in the workflow. The software allows the map files of the whole structure or individual territories to be sent for printing. (Page 6 of "CACI Limited Home Page")

Additionally, as admitted by Appellant, "the graphical displays shown on pages 6 and 7 of CACI Information Solutions suggest that precisely such a numerical labeling is used in the cited art. Enlarged versions of these graphical displays are provided in Exhibit 1, from which it is plainly evident that such numerical identifiers are provided on a map, suggesting that they are used as a means of identification." (Page 6 of Appeal

Brief) As shown in the sample maps on pages 6 and 7 of "CACI Information Solutions," the entire area displayed on each map is a territory (or "territory structure", both of which are used interchangeably by the CACI disclosures) while each labeled sub-area within the entire area is a geographical unit (or "brick"). By specifying a territory and bricks of interest, regardless of the mode of input employed, a user is defining (i.e., identifying, setting forth, making clear -- all of which are definitions cited from Merriam Webster's Collegiate Dictionary (10th ed.)) a closed geographical area and at least one geographical unit within the closed geographical area, as set forth in the claimed invention. Furthermore, any analysis generated in response to data specified by the user in an attempt to optimize workload and personnel assignments throughout territories of interest is provided to (or received by) the user, thereby addressing the last step recited in independent claims 1, 13, and 19.

In response to Appellant's assertion that "the claim language instead requires that they [the geographical area and the geographical unit] be spatially noncoextensive since the claims limit the at least one geographical unit to being 'within' the closed geographical area" (Page 7 of Appeal Brief), first, the Examiner maintains that the word *within* only implies containment. In other words, if A is *within* B, then A is a subset of B. While A cannot extend beyond B, A is not precluded from being equal to B. Similarly, the claim language does not preclude the closed geographical area from covering the same area as the geographical unit. Second, "CACI Information Solutions" discloses various maps with a territory structure consisting of smaller "bricks" (please see the sample maps on pages 6 and 7 of "CACI Information Solutions"). In these sample

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maps, there are clearly several “bricks” that are completed surrounded by other bricks and therefore do not share a boundary with the outline of the territory structure as a whole. In other words, these “bricks” (that are completed surrounded by other bricks) and the territory structure are “spatially noncoextensive since the claims limit the at least one geographical unit to being ‘within’ the closed geographical area.”

Regarding claims 4-6, Appellant asserts, “While Appellant traversed such Official Notice with respect to the motivation to combine and because the technical line of reasoning underlying the decision to take such Notice was insufficient in the context of the presented claims (Amendment filed August 28, 2003, paper no. 7, pp. 10-11), the Examiner has failed to supply documentary proof required under MPEP 2144.03 in response to Appellant’s request.” (Page 9 of Appeal Brief) The Examiner submits that Appellant never properly challenged the factual assertions made by Examiner using Official Notice. MPEP § 2144.04(C) states the following:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 (“[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention.”). A general allegation that the claims define a patentable invention without any reference to the examiner’s assertion of official notice would be inadequate.

On pages 10-11 of paper no. 6 (Appellant’s amendment filed August 28, 2003), Appellant did not challenge the facts asserted by the Official Notice of record. Instead, Appellant challenged Examiner’s motivation to combine the Official Notice teachings

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with CACI's FieldForce Planning services and territory optimization software. Appellant merely asserted, "What the use of a freehand trace advantageously permits, and which is not addressed by either the Office Action or the cited art, is the ability to define a closed geographical area that surrounds at least one geographical unit that is subsequently identified within the geographical area" (Page 11 of paper no. 6, Appellant's amendment filed August 28, 2003). In response to Appellant's argument, the fact that Appellant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). The fact that CACI's FieldForce Planning services and territory optimization software provides a simple means for entry of data, as asserted by the Appellant, does not prevent one of ordinary skill in the art from further enhancing the software with other well-known techniques for facilitating data entry.

Appellant claims that one of ordinary skill in the art at the time of Appellant's invention would not have been motivated to modify CACI's FieldForce Planning services and territory optimization software to yield the claimed invention. The limitations of claims 4-6 were addressed as follows:

CACI discloses the input of a specified geographic territory data, which implies the use of a type of trace to define the specified geographic territory and subterritories thereof; however, CACI fails to expressly teach that a trace may be entered in the form of a freehand trace (claim 4), using either a pen and digitizing tablet (claim 5) or a touch screen (claim 6). However, Official Notice is taken that it is old and well-known in the art of graphical user interface to allow a user to input data using a freehand trace, via a pen and digitizing tablet or a touch screen. These input methods

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allow a user to more conveniently enter data, especially data associated with various geographic coordinates (i.e., data which would require multiple inputs through a keyboard as opposed to a quick stroke of the hand to manually draw out or select a particular geographic area). Therefore, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with CACI the ability of a user to enter geographical territory data in the form of a freehand trace (claim 4), using either a pen and digitizing tablet (claim 5) or a touch screen (claim 6) in order to allow the user to more conveniently enter data, especially data associated with various geographic coordinates (i.e., data which would require multiple inputs through a keyboard as opposed to a quick stroke of the hand to manually draw out or select a particular geographic area).

The motivation was clearly laid out as providing the well-known benefit of "allow[ing] a user to more conveniently enter data, especially data associated with various geographic coordinates (i.e., data which would require multiple inputs through a keyboard as opposed to a quick stroke of the hand to manually draw out or select a particular geographic area)." Appellant's challenge to the motivation itself is based on Appellant's opinion that "entry of the reference numbers suggested by the graphical displays shown on pages 6 and 7 of CACI Information Solutions is at least as simple as providing a freehand trace." (Page 9 of Appeal Brief) Again, in response to Appellant's argument, the fact that Appellant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). Further, Appellant is splitting hairs over whether or not a particular user would prefer to enter data via a keyboard, freehand trace, pen and digitizing tablet, or a touch screen. Again, the Examiner asserts that

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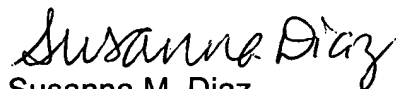
there are people who are very uncomfortable using keyboards (e.g., they might not be very familiar with the location of all of the keys) and therefore prefer more direct ways of inputting data through closer contact with a display on a computerized screen. In summary, the Examiner maintains that she has established a valid *prima facie* case of obviousness regarding the recitations of a freehand trace, pen and digitizing tablet, and touch screen.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,



Susanna M. Diaz
Primary Examiner
Art Unit 3623
March 22, 2004

Conferees



Tariq Hafiz
Supervisory Patent Examiner
Art Unit 3623



James Trammell
Appeal Conference Specialist
Supervisory Patent Examiner
Art Unit 3621

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834